



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,893	01/30/2004	Shinichi Takahashi	03670.002260	4193
5514	7590	07/24/2007	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			POND, ROBERT M	
		ART UNIT	PAPER NUMBER	
		3625		
		MAIL DATE	DELIVERY MODE	
		07/24/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/766,893	TAKAHASHI ET AL.
	<b>Examiner</b> Robert M. Pond	<b>Art Unit</b> 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 May, 04 June, and 06 July 2007.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-14,35-37,58-60,81-83 and 93-128 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 12-14,35-37,58-60,81-83 and 93-128 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 May 2007 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/4/07; 7/6/07</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____.                         |

## **DETAILED ACTION**

### ***Response to Amendment***

The Applicant amended independent claims 12, 35, 58, and 81, and newly added claims 93-128. Claims 1-11, 15-34, 38-57, 61-80, and 84-92 were canceled without prejudice or disclaimer of subject matter. The Applicant based arguments dependent upon amended subject matter. All pending claims 12-14, 35-37, 58-60, 81-83, and 93-128 were examined in this final office action necessitated by amendment.

Corrections to Fig. 7D were approved and will be entered. Corrections to the Specification were approved and will be entered.

### ***Response to Arguments***

Applicant's arguments filed 08 May 2007 have been fully considered but they are not persuasive. Further review of Aklepi subsequent to the interview and motivated by the Applicant's amendment, indicates that the Applicant's independent claims remain overly broad in light of the cited prior art Aklepi. See below for response to Applicant's arguments. The Examiner is suggesting the Applicant consider a telephone interview for further discussion.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 1. Claims 102-110 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01.**

The omitted steps are: active use of displayed data to achieve a useful, concrete and tangible result. Newly added dependent claims are merely presenting business data that offers no consequence to the claimed invention's utility.

- 2. Claims 93-101 and 111-128 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01.**

The omitted elements are: Newly added dependent claims are merely using structures presenting business data that offers no consequence to the claimed invention's utility.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**3. Claims 12, 14, 35, 37, 58, 60, 81, and 83 are rejected under 35 USC 103(a) as being unpatentable over Aklepi (US 6,795,823).**

Aklepi teaches an article routing and tracking system and method for optimally routing an article through a network of processing stations, and can re-calculate the route at every stop based on updated information (see at least abstract; Fig. 1; col. 1, line 5 through col. 6, line 41). Aklepi provides a system and method to de-consolidate an in-transit shipment of an article or plurality of articles and provide estimated time of arrivals for each de-consolidated article of an optimized route. Aklepi further teaches:

- transmitting to the server product inquiry information including an article number; system receives as search criteria for a global database a customer number to locate, track, and control multiple packages sharing a common characteristic; Regarding “product number” please see below.

The global database of routing and tracking information maintains a separate record for each article handled by the system, the basic identifier being an article tracking number unique to the article; additional identifiers can be associated with the article (see at least col. 6, lines 17-24); system search criteria by a user can be an article tracking number, a customer identifier (col. 9, lines 24-41).

- and receiving a plurality of estimated time of arrivals to a plurality of destinations for at least one in-transit unit having the article number, all routing activities are centralized in the global computer server which, in

turn, may be accessed and manipulated through an electronic communications network such as the Internet; an authorized user accesses the system from a personal computer through a standard Internet browser and enters the tracking number or customer identifier for the article or articles to be tracked. The authorized user is then be presented with a page showing the present status of the articles, tracking activity for each article, and the next scheduled stop along with an estimated time and date of delivery based on the most recent optimized routing. Using the browser, the user is then be able to modify routing options for each article or for the entire group of articles. The routing options may include, without limitation, canceling shipments in transit, changing the final destination of an article or articles, changing routing optimization variables by assigning more or less weight to factors such as average speed between processing stations, weather or traffic, requesting that articles be held at particular processing stations, requesting consolidation or de-consolidation of shipments, and requesting that a particular route be used regardless of optimization considerations. Any custom routing options entered by the user are then translated into a set of routing rules for the affected global database article records. At the next stop in each article's route, the global server will query the routing rules and take them into account when re-calculating the optimal route for each article. If no custom routing option's are specified by the user, the

optimized route is re-calculated using a predetermined set of default routing rules (see at least col. 10, lines 13-42). Please note: changing the routing of an article multiple time or multiple articles results in recalculating estimated arrival times and dates.

- Display the plurality of estimated time of arrivals, an identifier for each of the plurality of destinations, and at least one field for entering a quantity of in-transit units to be diverted to one of the plurality of destinations. As previously noted above... the authorized user is then be presented with a page showing the present status of the articles, tracking activity for each article, and the next scheduled stop along with an estimated time and date of delivery based on the most recent optimized routing (see at least col. 10, lines 13-42).
- receiving an acknowledgement from the server that it has diverted one of the at least one in-transit units to a final destination corresponding to the destination identifier. Provides final destination identifier and updates searchable global database having reached final destination (see at least col. 4, line 50 through col. 5, line 26).
- transmitting to the server a product purchase order including a article number, a quantity number, and a customer identifier; and receiving an acknowledgement from the server that the article order has been accepted, wherein the server diverts one of the at least one in-transit units of that article number to a final destination based on the customer

identifier. See below regarding "product." Purchase order number identifier associated with one or more articles, the identifier being a common characteristic among the articles purchased and being shipped (see at least col. 9, lines 24-41). Please note: system providing tracking information associated with a customer purchase order serves as acknowledgement.

Aklepi teaches all the above as noted under the 103(a) rejection and further teaches:

- articles as raw materials, manufactured goods, packages, parcels and parts;
- businesses require systems which minimize transit times, allow for maximum control of goods (i.e. articles) (i.e., the ability to re-route and hold articles in transit) and permit up-to-the-minute tracking of articles;
- in order to minimize transportation and translocation costs, it is beneficial to have the ability to consolidate or de-consolidate groups of articles while in transit without loosing the ability to track and route articles individually; and
- it is also important for businesses to have accurate information regarding estimated production, delivery and pick up times for articles to be able to adjust such times to meet production requirements and to have "end to end" accountability of shipments in transit.

Although Aklepi does not disclose using a product number or product order, it would have been obvious to one of ordinary skill in the art at the time the invention was made to associate a product number of a manufacture good in transit with an article's tracking number. For instance, Aklepi's invention teaches using an article's tracking number to re-route the individual article or group of articles. From an Aklepi's customer perspective, whether it is an end customer or manufacturer, diverting an in-transit shipment of an article or group of articles by an Aklepi customer would require knowledge of "what" the article is in order for the Aklepi customer to make an informed decision on re-routing or de-consolidation.

**4. Claims 13, 36, 59, and 82 are rejected under 35 USC 103(a) as being unpatentable over Aklepi (US 6,795,823).**

Aklepi teaches all the above as noted under the 103(a) rejection and teaches a) requesting by a user to re-route an individual article, multiple articles (i.e. quantities), or container to a new destination and/or final destination, b) using a destination identifier for tracking purposes (see at least col.8, lines 16-20), and further teaches common carriers providing transportation, multiple transportation routes, and tracking movement of a single article, but does not specifically disclose a carrier identification. It would have been obvious to one of ordinary skill in the art to ascertain as a prudent business practice to be able to uniquely

identify at least the business identities of the common carriers used to haul the articles.

**5. Claims 93-128 are rejected under 35 USC 103(a) as being unpatentable over Aklepi (US 6,795,823).**

Aklepi teaches all the above as noted under the 103(a) rejection and teaches using a) business data to the system users to effect in-transit re-routing and/or de-consolidation/consolidation decision-making, and b) customer purchase order information and account number information. Although Aklepi does not disclose other business data as claimed, it would have been obvious to one of ordinary skill in the art at time the invention was made to ascertain other system data and customer business data for presentation to the user may provide a customer convenience.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: US 2005/0149453 (Amling et al.) 07 July 2005, IDS 7/06/07; teaches a system and method of deconsolidating and re-directing items in-transit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

Art Unit: 3625

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert M. Pond  
Primary Examiner  
July 18, 2006

Approved - *kgm* 7/18/07

REPLACEMENT SHEET  
Appln. No. 10/766,893

ETA Diversion System					
Product Number: 1388A003AA		Description: _____			
Vessel #: 1X93JF	711a	# of Containers: 10	704a	Qty: 500	702a
In Transit Total: 750	720	ETA Port: 11/20	710a	Due Date: 11/15	706a
722	724	Unit of 1 Container=50	726	728	730
WH	Sales History (6 month)	Current Inventory	Current B/O	Diversion # of Container	Suggested Diversion Plan
11	500	0	50	1	ETA Replied
22	3000	100	0	1	ETA WH
32	1500	0	100	2	11/28
41	300	50	0	1	11/27
52	2000	0	150	3	11/26
Total	7300	150	300		11/20
				734	Approve

FIG. 7D